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8 UNITED STATES DISTRICT COURT
9 WESTERN DISTRICT OF WASHINGTON
10 AT TACOMA

11 LEO B. BUNKER,

12 v.
13 Petitioner,

14 JERI BOE,

15 Respondent.

16 CASE NO. 3:18-cv-05243-BHS-DWC

17 ORDER TO FILE SUPPLEMENTAL
18 BRIEFING

19 The District Court has referred this action to United States Magistrate Judge David W.

20 Christel. Petitioner Leo B. Bunker filed his habeas Petition (“Petition”), pursuant to 28 U.S.C. §
21 2254, seeking relief from state court convictions and sentence.

22 Petitioner filed his Petition on March 26, 2018. Dkt. 1. On June 1, 2018, Respondent filed
23 a timely Response and the relevant state court record. Dkts. 6, 8. After reviewing Respondent’s
24 Response, the Court directed Respondent to file supplemental briefing regarding Petitioner’s
25 allegedly unexhausted grounds on July 18, 2018. Dkt. 9. Respondent filed supplemental briefing
26 on August 20, 2018, and the Court entered a Report and Recommendation recommending
27 Petitioner’s Petition be denied. Dkt. 11.

1 On December 13, 2018, the Honorable Benjamin H. Settle entered an Order adopting the
2 Court's Report and Recommendation in part and referring for further consideration. Dkt. 13.
3 Judge Settle indicated neither Respondent nor the Court had addressed a ground for relief
4 Petitioner included in his Petition, namely that his due process rights were violated by the
5 prosecutor's statements during trial. Dkt. 13, p. 2. Judge Settle concluded, because Respondent
6 had not yet addressed the issue, Judge Settle would not *sua sponte* evaluate the claim and instead
7 would refer the matter back to this Court for further proceedings. *Id.*

8 Therefore, it is ORDERED:

- 9 1. Respondent is directed to file supplemental briefing addressing Petitioner's due
10 process ground for relief (*see* Dkt. 3, p. 11) and any additional relevant state court
11 records on or before January 4, 2019.
- 12 2. Petitioner may file a traverse addressing only the due process ground (*see* Dkt. 3, p.
13 11) on or before January 25, 2019.
- 14 3. The Clerk is directed to note this Petition is now ready for consideration as to
15 Petitioner's due process ground on January 25, 2019.

16 Dated this 18th day of December, 2018.

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19 David W. Christel
United States Magistrate Judge
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